



U.S. Department of Justice

Foreign Claims Settlement Commission
of the United States

Washington, D.C. 20579

July 17, 2007

MEMORANDUM

TO: Mauricio J. Tamargo, Chairman
Stephen C King, Commissioner 

THRU: David E. Bradley, Chief Counsel

FROM: Jeremy LaFrancois, Staff Attorney

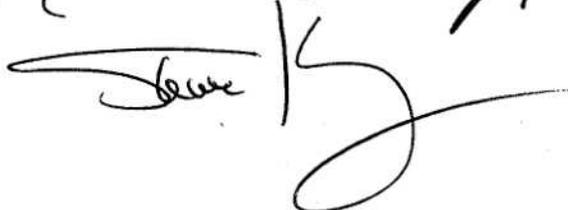
RE: No Further Action Recommendation, Claim No. ALB-109, Pandora Ilo Minka

We reevaluated this claim because of the deletion of the residency requirement from the claims agreement. The claim was initially denied on January 28, 1997 based on the residency requirement and lack of proof of United States citizenship. Two letters have been sent to the claimant, the first on June 7, 2006 and the second October 17, 2006. Neither was returned undeliverable to the Commission. The claimant was informed in the letters that if she were not to respond the file would be closed out and returned to storage. To date the claimant has not responded to either of the Commission's letters.

This claim involves property owned jointly by the claimant's father and brother which, claimant asserts, was expropriated by the communist regime in 1965. Claimant's father and brother were United States citizens at the time of expropriation. The claimant has provided a Summary of Certificate of Heirship from Albania indicating that she inherited one quarter of her father's estate in 1971 and one third of her brother's estate in 1988. The remaining portions of the respective estates were inherited by claimant's sister, nephew and niece. The file does not contain any evidence of the United States citizenship of the heirs; in fact, on the claim form the claimant states that she is not a United States citizen.

In light of the fact that the initial Proposed Decision specifically denied this claim based on a lack of proof of United States citizenship and claimant's failure to submit the evidence needed to support her claim, we recommend that this claim be closed without further action.

approved

The Governments of the United States and Albania concluded an agreement for en bloc settlement of claims of United States nationals against Albania on March 10, 1995. *Agreement Between the Government of the United States and the Government of the Republic of Albania on the Settlement of Certain Outstanding Claims*, March 10, 1995 (entered into force April 18, 1995) ("Settlement Agreement"). Claims covered by the Settlement Agreement are

the claims of United States nationals (including natural and juridical persons) against Albania arising from any nationalization, expropriation, intervention, or other taking of, or measures affecting, property of nationals of the United States prior to the date of this agreement[.]

Settlement Agreement, Article 1(a).

The Agreed Minute to the Settlement Agreement further provides:

For purposes of article 1, the term "United States nationals" shall include dual United States-Albanian nationals only if those nationals are domiciled in the United States currently or for at least half the period of time between when the property was taken and the date of entry into force of the agreement.

In effect, this residency requirement limits the Commission's jurisdiction over the claims of dual nationals to those cases where the owner of the claim either (1) was domiciled in the United States on April 18, 1995 (the effective date of the Settlement Agreement), or (2) was domiciled in the United States for at

least half the period of time between the date the property was expropriated and April 18, 1995.

Claimant here seeks compensation for approximately 4 hectares of land, as well a two-story stone and brick house (and its contents), a barn, a stable and livestock. According to claimant, the house and contents, the barn, the stable and the livestock were destroyed by the German forces in November 1943; and the land was expropriated by decree of the Communist regime in 1965. At that time, according to claimant, the property was owned by her father, Ilo Thanas Zguro (Nake) (Louis Thomas), and her brother, Andon Ilo Zguro (Anton L. Thomas). Claimant asserts that her father emigrated to the United States in 1912, was naturalized as a United States citizen, and died in the United States in 1971. Documentation submitted by claimant further indicates that her brother was naturalized as a United States citizen in 1943, and died in 1988. Claimant bases her claim on her status as an heir of her father and her brother.

Unfortunately, the information provided by claimant to date is not sufficient to establish her right to compensation.

As discussed above, the Settlement Agreement provides only for compensation of "United States nationals." The term "nationals of the United States," in turn, is defined in Title I of the International Claims Settlement Act of 1949, as amended, as "persons who are citizens of the United States." Pub. L. 455, 81st Cong., approved March 10, 1950, § 2(c), 64 Stat. 13 (22 U.S.C. 1621).

Section 531.6(d) of the Commission's regulations provides:

The claimant shall be the moving party, and shall have the burden of proof on all issues involved in the determination of his or her claim.

45 C.F.R. 531.6(d) (1995). The Commission finds that claimant here has not met the burden of proof in that she has failed to provide information to establish her U.S. nationality.¹ In the absence of such evidence, the Commission cannot find -- on the evidence submitted to date -- that this claim is compensable under the terms of the Settlement Agreement.

¹Indeed, on her claim form, claimant states that she is not a citizen of the United States. However, the claim form indicates that claimant's father was naturalized as a U.S. citizen, and his death certificate states that he was a U.S. citizen. If claimant's father was naturalized before her birth, claimant is a U.S. citizen.

Even if claimant were to establish her U.S. nationality, the Commission could not award compensation for the loss of the house and contents, the barn, the stable and the livestock. The Settlement Agreement covers only claims against the Government of Albania. Accordingly, losses suffered at the hands of the German forces during World War II are outside the scope of the Settlement Agreement and beyond the jurisdiction of the Commission.

Similarly, even if claimant were to establish her U.S. nationality, the residency requirement in the Agreed Minute to the Settlement Agreement would prevent the Commission from awarding compensation to her for her interests in property inherited from her father.

There is no indication that claimant was living in the United States on April 18, 1995 or, for that matter, that she has ever lived in the United States; and claimant's late father died in 1971. Thus, to the extent that claimant claims for property owned by her father, that part of her claim was not owned by someone living in the United States for at least half of the time between the alleged expropriation in 1965 and the effective date of the Settlement Agreement, April 18, 1995. The Commission therefore could not find that the residency requirement is satisfied as to the interests claimant inherited from her father.

On the other hand, if claimant could prove that her brother lived in the United States until at least 1980-81, the residency requirement would be satisfied as to the interests she inherited from him,² and the Commission could consider that part of her claim -- assuming claimant established her U.S. nationality and proved all other elements of her claim (which she has not done).

Accordingly, while the Commission sympathizes with claimant for the loss of her family's property, the claim must be and is hereby denied.

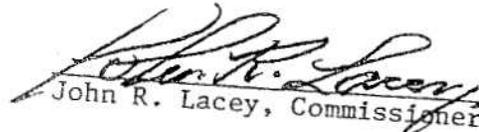
²The Commission notes, however, that most of the ownership documents submitted by claimant name her mother as the owner of the property. None of the ownership documents name her brother as an owner. The written statement of an official of the village of Polena indicates that claimant's father and brother were co-owners of arable land, vineyards and meadows expropriated in 1965. But the Certificate of Ownership for those properties names only claimant's father.

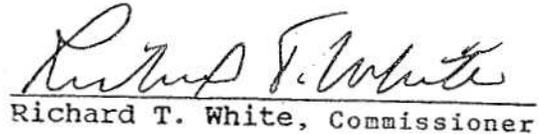
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

Dated at Washington, DC and entered as the Proposed Decision of the Commission.

JAN 28 1997


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on MAR 25 1997

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after service or receipt of notice of this Proposed Decision. Absent objection, this decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. 531.5 (e) and (g) (1995).